

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MIKAL WASHINGTON,

Case No. 3:20-cv-00440-MMD-WGC

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Plaintiff,

ORDER

NAPHCARE, INC., *et al.*,

Defendants.

This action began with an application to proceed *in forma pauperis* and a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a pretrial detainee. (ECF Nos. 1, 1-1.) On May 26, 2021, the Court issued an order deferring judgment on the application to proceed *in forma pauperis*, dismissing the complaint with leave to amend, and directed Plaintiff to file an amended complaint within 30 days. (ECF No. 5 at 7.) The Court also directed Plaintiff to update his address within 30 days pursuant to his obligations under LR IA 3-1 and warned him the Court would dismiss his case if he did not. (*Id.* at 1, 6.) The 30-day period has now expired, and Plaintiff has not filed an amended complaint or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone*,

1 *v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure
2 to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986)
3 (affirming dismissal for lack of prosecution and failure to comply with local rules).

4 In determining whether to dismiss an action for lack of prosecution, failure to obey
5 a court order, or failure to comply with local rules, the Court must consider several factors:
6 (1) the public's interest in expeditious resolution of litigation; (2) the Court's need to
7 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
8 the disposition of cases on their merits; and (5) the availability of less drastic alternatives.
9 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
10 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

11 Here, the Court finds that the first two factors, the public's interest in expeditiously
12 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
13 dismissal. The third factor, the risk of prejudice to Defendants, also weighs in favor of
14 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
15 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
16 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring
17 disposition of cases on their merits—is greatly outweighed by the factors weighing in favor
18 of dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
19 that court's order will result in dismissal satisfies the "consideration of alternatives"
20 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d
21 at 1424. The Court's order requiring Plaintiff to file an amended complaint within 30 days
22 expressly stated: "It is further ordered that, if Plaintiff fails to file an amended complaint
23 curing the deficiencies outlined in this order within 30 days, this action will be dismissed
24 without prejudice." (ECF No. 5 at 7.) And the Court's warning regarding updating his
25 address was similar. (*Id.* at 1, 6.) Thus, Plaintiff had adequate warning that dismissal
26 would result from his noncompliance with the Court's order to file an amended complaint
27 and update his address within 30 days.

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1 It is therefore ordered that this action is dismissed without prejudice based on
2 Plaintiff's failure to file an amended complaint or update his address in compliance with
3 this Court's May 26, 2021, order.

4 It is further ordered that the motion to proceed *in forma pauperis* (ECF No. 1) is
5 denied as moot.

6 The Clerk of Court is directed to enter judgment accordingly and close this case.

7 DATED THIS 7th Day of July 2021.

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11 MIRANDA M. DU
12 CHIEF UNITED STATES DISTRICT JUDGE

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